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No. 880

IN THE

Supreme Court of the United States

OCTOBER TERM, 1944

CLINTON WOODSON,
Petitioner,

vs.

THE PEOPLE OF THE STATE OF MICHIGAN,
Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF MICHIGAN

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To the Honorable, the Chief Justice and Associate Justices of the Supreme Court of the United States:

Petitioner, Clinton Woodson, prays for the issuance of a writ of certiorari to review the decisions of the Supreme

Court of the State of Michigan, in affirming on September 11, 1944, the judgment of the Recorder's Court for the City of Detroit, in the State of Michigan, and in denying on December 1, 1944, petitioner's request for rehearing, in connection with certain criminal proceedings.

I.
STATEMENT OF THE CASE

Petitioner was convicted in the Recorder's Court for the City of Detroit, Michigan, upon an information charging him with having committed perjury while testifying in the Circuit Court for the County of Wayne, in that State, during the trial of the case of *People v. Roxborough* and others (R. 4-7).

Evidence was introduced by the people to show that petitioner was duly sworn as a witness in the *Roxborough* case (R. 9), and that he there testified with reference to certain activities of himself and others in the numbers and policy business in the City of Detroit (R. 29).

The people, in order to prove that this testimony of petitioner was false, introduced certain other "testimony," claiming it to be inconsistent and true, previously given by him before Circuit Judge Ferguson sitting as a "one-man grand jury"* (R. 11-26).

Petitioner repeatedly objected to such use against him of his statements to the grand jury on the ground that

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*Judge Ferguson, as the "one-man grand jury" was acting pursuant to secs. 17217 *et seq.*, Comp. Laws 1929 of the State of Michigan (Stat. Ann. secs. 28.943 *et seq.*)

he was there compelled unconstitutionally to incriminate himself, inasmuch as he was required to testify without immunity having been granted to him as required by the statute.* The trial Court nevertheless held the evidence admissible (R. 80-84, 96).

At the close of the people's proofs, motion for directed verdict was made and denied (R. 147). Petitioner refused to introduce evidence in his behalf, insisting that the people had failed to prove a case. He was found guilty and sentenced to the State Prison for a term of from 2 to 15 years. Motion for a new trial was made, renewing the objection to the use of the grand jury testimony (R. 161, 165-6). This motion was denied (R. 171).

Thereafter, in due course, appeal was taken, urging the same objections, to the Supreme Court of the State of Michigan, that being the highest court in that State, which affirmed the conviction of appellant (R. 174-180), Wiest, J. dissenting (R. 180-187). On October 2, 1944, extension of time to October 11, 1944, to file application for rehearing was granted by the State Court (R. 188). The application was filed on October 10, 1944 (R. 189-202), and was denied on December 1, 1944 (R. 203).

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*Sec. 17220 Comp. Laws 1929 of the State of Michigan (Stat. Ann. sec. 28.946).

II.
QUESTION PRESENTED

Was petitioner deprived of that due process law guaranteed him by Sec. 1 of the 14th Amendment to the Constitution of the United States, by the use against him of self-incriminating testimony involuntarily obtained from him by the "one-man grand jury," which failed to grant him immunity?

III.
REASONS FOR ALLOWANCE OF THE WRIT

1. The Michigan Supreme Court has considered and denied petitioner's claim of rights guaranteed him under the Constitution of the United States, 14th Amendment, Sec. 1, in sustaining the people's use against him of self-incriminating evidence obtained by compulsion and duress, and by forcing him into a waiver of his constitutional right not to testify against himself.

2. The Michigan Supreme Court considered the application of Sec. 17220, Comp. Laws 1929, to the facts of this case, and the supposed order of the one-man grand jury granting immunity, which was in fact a nullity, and decided against petitioner's claim that such judicial procedure and its subsequent abortive use violated his right to due process of law under the aforesaid provision of the Constitution of the United States.

3. The question involved is of general public importance, affecting the fundamental fairness of judicial proceedings.

4. The Michigan Supreme Court has decided herein a federal question of substance not determined by this Court, and its decision is not in accord with the line of decisions of this Court on the exclusion of compulsory self-incriminating evidence.

IV.
PRAYER

WHEREFORE, petitioner, Clinton Woodson, prays that a writ of certiorari issue under the seal of this Court directed to the Supreme Court of Michigan commanding the said Court to certify and send to this Court a full and complete transcript of the record and of the proceedings of said Court had in this cause numbered on its docket No. 42-340, and entitled "*People of the State of Michigan, Plaintiff and Appellee, v. Clinton Woodson, Defendant and Appellant.*" to the end that this cause may be reviewed and determined by this Court and that the judgment of the said Supreme Court of Michigan be reversed and for such further relief as this Court may deem proper.

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